ALLBRITTON COMMUNICATIONS

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January 12, 1999

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: **Ex Parte Presentation**
Allbritton Communications Company
MM Docket Nos. 91-221; 87-7; 94-150

Dear Ms. Salas:

Pursuant to Section 1.1206 (b)(2) of the Rules, this letter is submitted in duplicate to advise the Commission that the undersigned sent copies of the attached letter to the offices of the Chairman and Commissioners Ness, Powell and Furchgott-Roth and to the Chief, Mass Media Bureau and members of their staffs in connection with the above-referenced proceedings.

Please contact the undersigned with any questions regarding this matter.

Respectfully submitted,

Jerald N. Fritz
Vice President
Legal and Strategic Affairs

808 Seventeenth Street, NW Suite 300 Washington D.C. 20006 202•789•2130 FAX 202•822•6749

ALLBRITTON
COMMUNICATIONS

January 12, 1999

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: <u>Enhanced Coverage LMAs</u>
<u>MM Docket Nos. 91-221; 87-7; 94-150</u>

Dear Mr. Chairman:

As we have discussed, among your considerations in reviewing the local multiple ownership rules is the impact local marketing agreements (LMAs) have on the Commission's policy of program and ownership diversity. We noted, and you acknowledged, that not all LMAs are structured the same. Specifically, so-called "Enhanced-Coverage LMAs" are unusual arrangements where stations at opposite ends of a market simulcast programming in order to increase the reach of that programming. You have asked for specific suggestions regarding how these unique situations should be assessed. In recognition of the significant additional source and ownership diversity created by these distinctive local marketing agreements, we propose that the Commission recognize them as "***Satellite Stations,***" excepted from the multiple ownership restrictions.

Enhanced-coverage LMAs are rare. Unlike typical LMAs, they are creative arrangements to ***add*** voices to a market. The ABC network affiliates in Birmingham, Alabama and Jacksonville, Florida are examples. By simulcasting two fringe market stations to provide network service to the entire market, an additional voice has been added where none existed before and the former affiliate continues to provide service to the market. In Birmingham, two stations licensed to Tuscaloosa and Anniston simulcast programming with overlapping city grade signals in Birmingham. Individually, neither station's signal would cover the market, but in combination, they do. Similarly, the Jacksonville, Florida market's ABC services comes from two stations licensed to Orange Park, Florida and Brunswick, Georgia with overlapping signals in Jacksonville.

By definition, diversity is enhanced for the viewers in the center of the market who otherwise would not receive this new service.

These rare and distinctive situations clearly deserve to be excepted from the proscriptions of the Duopoly rule in the event that LMAs are designated as "attributable interests." In essence, these arrangements are more like "Satellite Stations" currently authorized as exceptions to the Duopoly rule in Note 5 to §73.3555 of the Commission's

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rules. There, the Commission's policy recognizes that commonly owned, simulcasted stations enhance market coverage. As an alternative to excepting these Enhanced-Coverage LMAs directly from the Duopoly proscription or granting presumptive waivers to them, categorizing them as "Satellite Stations" is an effective means to accomplish the same result. Since these unique forms of LMAs, *by definition*, increase both source and viewpoint diversity, recognizing them as legitimate Satellite Stations will not compromise the Commission's goals with respect to LMAs generally.

The following proposed language could be inserted after the second sentence of Note 5 to §73.3555 as a clarification to the "Satellite Station Policy" set forth in MM Docket No. 87-8 (FCC 91-182, Released July 8, 1991):

> ***"A Satellite Operation shall also be deemed to exist where: (i) programming is simulcast on both satellite and non-satellite parent station at least 90% of each station's broadcast hours weekly, (ii) where the satellite station increases the predicted Grade B signal coverage area of the applicable DMA by more than 15%, and (iii) where there will remain at least four separately owned commercial television stations in the applicable DMA independent of the Satellite Operation."***

This extremely limited change to the Satellite Station Policy recognizes the absolute benefits of Enhanced Coverage LMAs by requiring at least 90% simulcasting, increasing service to cover the market, and not affecting the remaining number of voices in the market. Because of the simulcasting requirement, the exception is not useful to virtually all other current forms of LMAs and, therefore, will not open the floodgates of "backdoor exceptions" to the Duopoly rules.

We appreciate your consideration of this proposal as a constructive suggestion to move the process forward.

Very truly yours,

Jerald N. Fritz
Vice President
Legal and Strategic Affairs

cc: Kathryn Brown, Esq.
Susan Fox, Esq.
Secretary, Federal Communications Commission